

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

LAUGER COMPANIES, INC., §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 6:16-cv-11
§
MID-CONTINENT CASUALTY §
COMPANY, §
§
Defendant. §

DEFENDANT MID-CONTINENT CASUALTY COMPANY'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant, **MID-CONTINENT CASUALTY COMPANY** ("Mid-Continent"), and file this, its Notice of Removal, and would show the court the following:

I.
INTRODUCTION

1. Plaintiff is LAUGER COMPANIES, INC.. Defendant is **MID-CONTINENT**

CASUALTY COMPANY.

2. On January 27 2016, Plaintiff sued Defendant in the 135^h Judicial District Court of Victoria County, Texas, in Cause No. 16-01-78886-B styled *Lauger Companies, Inc. v. Mid-Continent Casualty Company*, in the 135th Judicial District Court of Victoria County, Texas, which case is still pending in said court.

3. Defendant MID-CONTINENT CASUALTY COMPANY was served with such suit by certified mail, return receipt requested on January 27, 2016 and received in their offices on February 2, 2016. Defendant **MID-CONTINENT CASUALTY COMPANY** files this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b).

II.
BASIS FOR REMOVAL

4. Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. §1332(a). Plaintiff, LAUGER COMPANIES, INC. is a Texas corporation with its principal office in Victoria County, Texas. Defendant MID-CONTINENT CASUALTY COMPANY is a foreign corporation organized and existing under the laws of the state of Ohio with its principal place of business in Tulsa, Oklahoma.

5. The amount in controversy exceeds \$75,000, as Plaintiff sued for indemnity of the underlying action. According to Plaintiff's Original Petition, Lauger Companies purchased concrete from Cross Roads as part of the materials to be used by Lauger Companies in construction of a building foundation for MW Rentals. Lauger Companies excavated the site, did the dirt work, placed the forms, laid the re-bar, and laid out the anchor bolts. According to the petition, Cross Roads provided the concrete and Lauger Companies alleged that the foundation failed and it was forced to remove the entire foundation that it had built for MW Rentals. Lauger sued Cross Roads in Texas State court for breaches of the Texas Deceptive Trade Practices Act, breach of contract, breach of warranty and for negligence. On October 9, 2015, the state court granted Lauger Companies \$162,009.14 in actual damages, plus other relief as specified in the Final Judgment attached to Plaintiff's Original Petition.

6. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court action where the action has been pending is located in this district.

7. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending.

8. All pleadings, process, orders, and other filings in the state court action will be attached to this notice as required by 28 U.S.C. §1446(a) as follows:

- (a) Original Petition
- (b) Citation by Certified Mail Mid-Continent Casualty Co.
- (c) Defendant Mid-Continent Casualty Company's Original Answer;
- (d) iDocket Civil Docket Sheet of Case 16-01-78886-B in the 135th District Court of Victoria County, Texas.

If any further pleadings have been filed with the court, we will supplement the this removal.

III.
PRAYER

WHEREFORE, Defendant **MID-CONTINENT CASUALTY COMPANY** asks the Court to remove the action referred to as Cause No. 16-01-78886-B styled *Lauger Companies, Inc. v. Mid-Continent Casualty Company*, in the 135th Judicial District Court of Victoria County, Texas, to this federal court.

Respectfully submitted,

By: _____ */s/ R. Brent Cooper*
R. BRENT COOPER
State Bar No. 04783250
Email: brent.cooper@cooperscully.com
LEAD COUNSEL

ROBERT J. WITMEYER
State Bar No. 24091174
Email: rob.witmeyer@cooperscully.com
COOPER & SCULLY, P.C.
900 Jackson Street, Suite 100
Dallas, Texas 75202
Telephone: (214) 712-9500
Telecopy: (214) 712-9540

**ATTORNEYS FOR DEFENDANT
MID-CONTINENT CASUALTY COMPANY**

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing document was served on counsel for all parties listed below pursuant to the Federal Rules of Civil Procedure on the 26th day of February 2016.

/s/ R. Brent Cooper
R. BRENT COOPER